

35258

SERVICE DATE – DECEMBER 20, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-57 (Sub-No. 55X)

Soo Line Railroad Company - Abandonment Exemption - in Milwaukee County, WI

BACKGROUND

In this proceeding, Soo Line Railroad Company (Soo Line or railroad) filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 5-mile line of railroad known as the West Allis Line in Milwaukee County, Wisconsin (WI). The rail line proposed for abandonment is located between Milepost 88.2 near the State Highway 41 crossing in Milwaukee and Milepost 93.2 near North 123rd Street in Wauwatosa (subject line). A map depicting the rail line in relationship to the area served is appended to this report. The railroad intends to salvage equipment and materials, but the ballast and some structures would remain in place. There are no bridges on the subject rail line.

DESCRIPTION OF THE LINE

The average right-of-way width on the subject line is 100 feet. The surrounding land uses include residential, commercial and industrial. According to the Soo Line, the subject rail line was last used in October 2001 and there has been no overhead traffic on the subject line for the past five years. There is only one former customer on the line (i.e., Ryerson Steel) and that customer has not received any rail traffic in the last two years. The subject rail line also connects to a spur track owned by Whitnall Summit Company. Avalon Rail is located on the spur but it has used the Union Pacific Railroad Company as its primary carrier since October 2001.

The eastern end of the subject rail line terminates at the Airline and Muskego Yards, which would continue to be used for rail purposes following the proposed abandonment. The western end of the subject rail line terminates at a section of rail line that serves a cluster of active shippers. These shippers would continue to receive rail service by the Soo Line following the proposed abandonment.

Development of the subject rail line was initiated in 1864 by the Milwaukee and St. Paul Railroad Company, which later became the Chicago Milwaukee St. Paul and Pacific Railroad Company, and then the Soo Line Railroad Company. The railroad's Historic Report indicates that

there are no structures on the subject rail line that are 50 years of age or older.

A Phase I Environmental Site Assessment (ESA) completed in December 2003 identified five Recognized Environmental Conditions (RECs) on the subject rail line. These RECs were related to former track hoppers at a cement and concrete plant, batteries, railroad ties, junkyard, unauthorized dumping of unlabeled drums and household trash, and soil piles containing concrete and wood.

ENVIRONMENTAL REVIEW

The railroad submitted environmental and historical reports that indicate that the quality of the human environment would not be affected significantly as a result of the abandonment. The railroad served these reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service (formerly the Soil Conservation Service) had not responded to the railroad's Environmental Report at the time this Environmental Assessment (EA) was prepared.

Because rail traffic no longer moves on the subject line, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

According to the Soo Line, the U.S. Army Corps of Engineers - Waukesha Field Office - (USACE) concluded that a permit under Section 404 of the Federal Clean Water Act would not be required for the proposed abandonment and salvaging activities. A copy of the USACE's correspondence to the Soo Line was not available to SEA at the time this EA was prepared.

The U.S. Environmental Protection Agency - Region 5 (USEPA) raised questions regarding the Recognized Environmental Conditions (RECs) identified by the railroad's Phase I ESA and the railroad's planned disposal method for wood railroad ties. In response, the Soo Line has indicated that all five RECs would be properly disposed of in accordance with Federal and state laws. Likewise, the Soo Line stated that all creosote-treated wood would be disposed of in accordance with Federal and state laws.

The U.S. Fish and Wildlife Service - Green Bay ES Field Office (USFWS) stated that it has no record of any Federally listed threatened or endangered species, candidate species or critical habitat as being present in Milwaukee County. Similarly, the WI Department of Natural Resources (WiDNR) also stated that there are no state or Federal endangered or threatened species in the corridor of the

subject rail line. Therefore, SEA concludes that the abandonment, as currently proposed, would not adversely affect Federally listed threatened or endangered species or adversely modify designated critical habitat.

The U.S. Department of Commerce's National Geodetic Survey has identified one geodetic station marker that may be affected by the proposed abandonment. Therefore, SEA recommends a condition to address this concern.

The WI Department of Natural Resources (WiDNR) suggested that the Board extend the limits of the abandonment to facilitate connection to the Hank Aaron State Trail. However, the Board does not have the authority to extend abandonment limits. Additionally, WiDNR stated that floodplains, threatened and endangered species, and national or state parks or forests are either not present or should not be affected by the proposed abandonment.

WiDNR also stated that permits may be required for grading, wetland fill and erosion control activities, and that proper erosion control measures should be used and maintained during and after any track, tie, or culvert removal. Areas of disturbed soils should be restored to original grade and reseeded as soon as possible with native species where appropriate. WiDNR also recommended that rails and ties be recycled, and all waste material disposed of in an appropriate manner. The railroad has indicated any materials that are not recycled or reused would be disposed of in compliance with applicable Federal and state laws. In addition, SEA recommends a condition to address WiDNR's concerns regarding abandonment and salvaging procedures including erosion control measures.

The WI Department of Transportation (WiDOT) encouraged the preservation of the right-of-way for transportation or trail uses. If the subject rail line is abandoned, WiDOT stated that the Soo Line would need to comply with the WiDOT Abandoned Railroad Line Salvage and Clean-up Policy/Standards/Procedures; protect surveying benchmarks and monumentation; remove rail, ties and ballast at the crossings of state highways; restore state highways at abandoned crossings; and coordinate highway crossing abandonment activities with WiDOT. Therefore, SEA recommends a condition to address WiDOT's concerns.

The Wisconsin Historical Society (the State Historic Preservation Offices or SHPO) requested additional information in a September 13, 2004 response letter. The Soo Line supplied the additional information to the SHPO in a letter dated November 15, 2004. Therefore, pending completion of the SHPO's assessment, SEA recommends a condition to ensure compliance with the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

We recommend that the following environmental conditions be placed on any decision granting abandonment authority.

1. Prior to conducting any abandonment and salvaging activities, the railroad shall consult with the WI Department of Natural Resources regarding abandonment and salvaging procedures including erosion control measures.
2. Prior to conducting any abandonment and salvaging activities, the railroad shall consult with the WI Department of Transportation regarding salvaging and abandonment procedures.
3. The National Geodetic Survey (NGS) has identified one (1) geodetic station marker that could be affected by the proposed abandonment. Therefore, the railroad shall notify NGS 90 days prior to salvage activities in order to plan for its potential removal.
4. The railroad shall retain its interest in and take no steps to alter the historic integrity of the right-of-way until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Subject to the recommended conditions, and based on the information provided from all sources to date, we conclude that, as currently proposed, abandonment of the subject line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and, therefore, no change in operations), discontinuance of service without abandonment and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment, the ROW may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Surface Transportation Board, with a copy to the railroad, within 20 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of ROWs as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-565-1592 or mail inquiries to the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of David Navecky, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to STB Docket No. AB-57 (Sub-No. 55X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, please contact David Navecky by phone at 202-565-1593, fax at 202-565-9000, or email at naveckyd@stb.dot.gov.

Date made available to the public: December 20, 2004

Comment due date: **January 18, 2005**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

